SUBCOMMITTEE NO. 1 on Education

Subcommittee No. 1
Chair, Gloria Romero
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State Capitol, Room 3191

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I. CHILD CARE AND DEVELOPMENT PROPOSALS

A. <u>Background</u>. Under current law, the state makes subsidized child care services available to: (1) families on public assistance and participating in work or job readiness programs; (2) families transitioning off public assistance programs; and (3) other families with exceptional financial need.

Child care services provided within the California Work Opportunity and Responsibility to Kids (CalWORKs) program are administered by both the California Department of Social Services (DSS) and the California Department of Education (CDE), depending upon the "stage" of public assistance or transition the family is in. Stage 1 child care services are administered by the DSS for families currently receiving public assistance, while Stages 2 and 3 are administered by the CDE.

Families receiving Stage 2 child care services are either (1) receiving a cash public assistance payment (and are deemed "stabilized") or (2) in a two-year transitional period after leaving cash assistance; child care for this population is an entitlement for twenty four months under current law. The State allows counties flexibility in determining whether a CalWORKS family has been "stabilized" for purposes of assigning the family to either Stage 1 or Stage 2 child care. Depending on the county, some families may be transitioned to Stage 2 within the first six months of their time on aid, while in other counties a family may stay in Stage 1 until they leave aid entirely.

If a family is receiving Stage 3 child care services, they have exhausted their two-year Stage 2 entitlement. The availability of Stage 3 care is discretionary and contingent upon the amount of funding appropriated for the program in the annual Budget Act.

Subsidized child care is also available on a limited basis for families who have never been on public assistance but who exhibit exceptional financial need. Under current practice, services for these two populations are supplied by the same group of child care providers; however, waiting lists, while consolidated, grant priority to the former CalWORKs recipients.

Child Care is provided through either (1) licensed child care centers or (2) the Alternative Payment Program.

- *Child Care Centers* receive direct funding from the state (at a Standard Reimbursement Rate), which pays for a fixed number of child care "slots." Centers provide an educational component that is developmentally, culturally, and linguistically appropriate for the children served. Centers also provide nutrition education, parent education, staff development, and referrals for health and social services programs. In many areas of the State, there are no available "slots" in licensed Child Care Centers or Family Day Care Centers and families are limited to the use of license-exempt care (kith and kin).

- *Alternative Payment Programs (APs)* act as an intermediary between CDE, the child care provider, and the family, to provide care through means-tested vouchers. Vouchers provide funding for a specific child to obtain care in a licensed child care center, licensed family day care home, or license-exempt care (kith and kin). With a voucher, the family has the choice of which type of care to utilize.

The adopted **2009-10 Budget Act** provides the CDE with approximately $2.48 billion to support approximately 870,276 children in the state's subsidized child care, after school, and preschool systems. The proposed amount represents a decrease of approximately $85 million from the originally enacted 2008-09 expenditure level. Of the amount proposed for all child development programs at CDE, 29 percent of the funding will be spent on current and former CalWORKs recipients.

The Governor's January budget proposal did not include any funding for either Cost-of-Living-Adjustments (COLAs) or enrollment/caseload growth in <u>non-CalWORKs</u> child development programs. Growth adjustments in the CalWORKs child care programs are based and funded on actual CalWORKs caseload adjustments, which are coordinated between the DSS and CDE; these caseloads will be updated at the May Revision.

California Child Care and Development Programs
2009-10 (Dollars in Millions)

Program[a]	2007-08	Budget Act 2008-09	Revised 2008-09	Adopted 2009-10	Change (2008-09 to 2009-10)	
					Amount	Percent
CalWORKs[b] Child Care:						
Stage 1[c]	$536	$617	$616	$705	$88	14.5%
Stage 2[d]	548	532	505	443	-62	-12.3%
Stage 3	405	433	418	389	-29	-6.7%
Subtotals	($1,489)	($1,582)	($1,539)	($1,537)	(-$2)	-0.1%
Non-CalWORKs[b] Child Care						
General child care	$759	$810	$780	$789	$9	1.2%
Other child care programs	329	338	329	333	4	1.2%
Subtotals	($1,088)	($1,148)	($1,109)	($1,122)	($13)	1.2%
State Preschool	$422	$445	$429	$435	$6	1.4%
Support Services	$106	$106	$106	$102	-$4	-3.8%
Totals – All Programs	**$3,104**	**$3,281**	**$3,182**	**$3,196**	**$14**	**0.4%**
Funding Sources						
Proposition 98 General Fund	$1,736	$1,801	$1,718	$1,973	$255	14.8%
Federal Funds	$1,162	1,140	1,126	1,221	95	8.4%
Other[e]	$207	340	339	2	-337	-99.4

[a] Except where noted otherwise, all programs are administered by the CDE

[b] California Work Opportunity and Responsibility to Kids

[c] Administered by California Department of Social Services

[d] Includes funding for centers run by California Community Colleges

[e] Includes prior-year carryover, federal reimbursements, non Proposition 98 GF and redirected Child Care Facilities Revolving Fund monies.

B. Reduction in Provider Reimbursement Rates. The 2009-10 Budget Act includes a reduction in the reimbursement rate ceiling for voucher based child care programs -- from the 85th percentile of the *2005* Regional Market Rates, to the 75th percentile of the *2007* Regional Market Rate (RMR), for a savings of $38.7 million Proposition 98 General Fund.

The $38.7 million in savings is the net result of: (1) an increase in reimbursement rates pursuant to the implementation of the new (2007) Regional Market Rate survey, coupled with (2) the savings derived from reducing rates off this presumably higher base.

The savings associated with this proposal are <u>already included</u> in the 2009-10 Budget Act, as adopted by the Legislature in February 2009. However, in order for this policy change to take effect, the Legislature needs to adopt the accompanying statutory change.

Background. Child Care providers, either licensed family child care home providers or license-exempt providers, are reimbursed for child care services based on the market rates of their particular region. Licensed providers are presently reimbursed at a ceiling of the 85th percentile of the <u>2005</u> Regional Market Rate and license-exempt providers are reimbursed at a maximum of the 90th percentile of the *licensed provider* ceiling. As such, reducing the licensed reimbursement rate from the 85th to the 75th percentile impacts not just licensed providers, but also license-exempt providers.

Provider rate reductions have been proposed by the Administration in prior years. During previous subcommittee hearings on this topic, child care providers testified that rate reductions could make it very difficult for licensed family child care providers and centers that accept families with subsidies (and are reimbursed through the voucher system) to stay in business and provide high quality services.

Staff Recommends. Staff recommends that the Department of Finance and the CDE: (1) examine the fiscal impact of retaining rates at the 85th percentile of the Regional Market Rate, but (further) delay implementation of the 2007 Regional Market Rate survey, and (2) report back to the committee at the May Revision.

C. Fee Payment by Cash Aid Recipients. The current family fee proposal (as discussed further in the next issue) requires families to start paying fees at the same income level as in 2006, even though the State Median Income (SMI) increased in 2007 (and was thereafter frozen). This approach has the effect of lowering the family fee floor each time the SMI is adjusted upward. As a result, as the SMI increases, families whose incomes are lower than 40 percent of SMI are now required to pay fees and share in the cost of care.

In September 2008, the Governor vetoed a provision of the final Budget Act that would have explicitly exempted families with incomes under 40 percent of SMI from paying fees. While this language remains consistent with the Legislature's understanding of the current fee policy, the Administration's recollection of the policy discussion differs.

Last year, the Legislature codified its policy that families receiving *cash aid* not pay a fee for child care services (Education Code 8447(g)). The theory in adopting this provision was that state CalWORKs dollars that are paid to a family should be used to support the family, not pay for child care services that the state is already providing.

Contrary to current law - which has yet to be implemented by CDE - there is a relatively small population of cash aid recipients that are currently paying fees. Under current law, these families would cease fee payment (thus running contrary to the Administration's recollection of fee policy discussions, whereby families that are currently paying fees would continue to pay fees).

As such, the Administration is proposing that families in the following two categories continue to pay a family fee regardless of their cash aid status:

> Delay in Reporting. This population includes CalWORKs recipients who are no longer on cash aid, but for whom that income information has yet to be reported to the child care provider. Under the CalWORKs program, individuals on cash aid are reported to child care providers quarterly. In some cases, families may be off cash aid, but the reporting system has yet to catch up. As a result, these families may be receiving child care services without paying a fee; this could occur for up to three months, until the reporting system catches up.
>
> Differing definitions of an "assistance unit". The CalWORKs program and the child care program do not appear to use the same definition of "assistance unit" in assessing: (1) eligibility for CalWORKs and (2) when a family begins paying child care fees. As a result, if a family has income from an outside (non-CalWORKs counted) source, such as college workstudy or a non-custodial parent, that income would be included for fee assessment purposes, but not for cash aid.

Policy Question. The question before the committee is whether or not the two above-mentioned categories of families should pay family fees, in spite of current law exempting cash aid recipients from paying. Staff notes that the administrative burden and cost of collecting fees from these individuals may exceed the revenues derived from the fee.

> Staff recommends that the Legislature deny the Administration's trailer bill request and that CDE actively adopt the same definition of an "assistance unit" for use in its family fee schedule as used by the Department of Social Services for assessing eligibility for aid.

D. Increase in Family Fees. Similar to the issue noted above, the 2009-10 Budget Act includes an increase in the level of fees paid by families for child care services. This proposal saves $14.4 million in Proposition 98 General Fund by increasing fees for families paying for subsidized child care. Fees are charged to families once they reach a set monthly income level. The savings associated with this proposal are already included in the 2009-10 Budget Act as adopted by the Legislature in February 2009. However, in order for this policy to take effect, the Legislature needs to adopt the accompanying statutory change.

Background. Up until 2006, California families who received child care subsidies began to pay a family fee when their incomes reached 50 percent of the SMI and fees were capped at 8 percent of a family's monthly income. In 2006-07, as part of the budget process, the threshold at which a family begins paying fees was lowered from 50 percent of SMI to 40 percent of SMI and the cap was raised to 10 percent of family monthly income.

Governor's proposal. The Governor's proposal starts charging fees to families whose income is a little below 40 percent of SMI (see prior agenda issue), or approximately $23,000 for a family of three. Under the proposal, fees then increase by $2 per day, on a sliding scale, thereby doubling the amount families with the lowest incomes will pay. The 10 percent cap referenced above remains unchanged.

Child care advocates argue that raising fees will likely harm low-income children by taking money from already scarce family resources. Further, it is important to note that if a family fails to pay the monthly fee, they can lose their child care subsidy entirely, either putting children at risk of substandard care or returning to cash aid. Lastly, it is unclear if the administrative costs and burdens associated with collecting these smaller fee amounts outweigh the actual fee revenue collected.

<u>Staff recommends</u> that the Department of Finance, CDE, and DSS submit a proposed family fee schedule to the committee in May/June and that this issue be held open pending the May Revision.

II. OTHER CHILD DEVELOPMENT ISSUES

A. Mid-Year State Median Income (SMI) "Correction". Current law establishes eligibility for the state's child care programs for families who have an adjusted monthly income at or below 75 percent of the SMI. In response to budget circumstances, the Legislature and the Governor took action through the Annual Budget Act to "freeze" (at the 2007-08 level) the income level at which eligibility for child care services are determined. As a result, 75 percent of the 2007 SMI level is the threshold under which eligibility is determined. For families receiving child care services during the 2007-08 and part of the 2008-09 fiscal years, the income threshold was $45,228 for a family of three.

On February 1, 2009, CDE issued a mid-year "correction" to the SMI calculation, which decreased the income ceiling by $564 annually ($44,664 for a family of three). According to the Department of Finance, a calculation error was made when the 2007 SMI numbers were originally released to CDE. As families renew their eligibility (which happens annually), if their income **did not drop** by the "corrected" amount, the family will lose child care services.

As part of the Administration's family fee proposal, CDE would be required to *update* SMI "based on the best available data," and then submit a revised family fee schedule (based on the new SMI) to DOF for approval. Staff notes that unless the SMI is "unfrozen" or the Legislature adopts a new family fee policy, there is no reason for the family fee schedule to change on a year-to-year basis.

The Legislature has expressed its intent that income levels be frozen at 2007-08 levels thus approving the Administration's prior proposals to "freeze" eligibility levels, at the same levels in effect for the prior years. CDE's actions to adjust the SMI downward under the auspices of a "technical" correction run contrary to the Legislature's intent on this matter.

Staff Recommends. Staff recommends that the committee: (1) deny DOF's trailer bill proposal authorizing CDE to update the family fee schedule based on "the best available [SMI] data"; (2) direct CDE to rescind its February 1, 2009 management bulletin revising the SMI eligibility threshold; and (3) adopt Budget Act language clearly stating the income threshold as the same level in effect for families in 2007-08, as follows:

6110-196-0001 Provision 8

> (a) Notwithstanding any other provision of law, the income eligibility limits pursuant to Section 8263.1 of the Education Code that were ~~applicable~~ <u>*in effect*</u> ~~to~~ for the 2007-08 ~~and 2008-09~~ fiscal years shall remain in effect for the 2009-10 fiscal year.
>
> (b) Nothwithstanding any other provision of law, the State Department of Social Services shall, in consultation with the State department of Education, adjust the family fee schedule for child care providers to reflect a state median income of ~~$66,166~~ <u>*$67,008*</u> annually for a family of four. The fee schedule shall retain a flat fee per family and begin at income levels at which families currently begin paying fees. The revised fee schedule shall increase the lowest fees by $2 per day and continue to increase fees on a sliding scale up to a maximum of 10 percent of income at a lower point in the income eligibility spectrum when compared to the current schedule.

B. **CDE Proposed 2009-11 Expenditure Plan for Ongoing Federal "Quality" Dollars.**

Federal law mandates the state to submit a statewide plan outlining how California intends to spend federal Child Care Development and Block Grant Funds (CCDBG). Under federal law, California is required to spend at least four percent of the federal CCDBG it receives on programs to enhance the "quality" of child care services. As part of its larger federal expenditure plan, CDE composes a child care *quality* expenditure plan, to be submitted to the federal government every two years. CDE is currently composing this expenditure plan.

Current state law (Education Code 8206.1(c)) requires that CDE coordinate with DSS, the California Children and Families Commission, and other stakeholders, including the Department of Finance to develop the broader CCDBG plan. CDE is currently in the midst of the mandated process, having released a draft plan and sought public testimony on the proposal. Prior to the May Revision, CDE is required to provide a revised expenditure plan to the committee for review.

As an overlay to the CDE quality plan, the Legislature earmarks dollars for high priority quality programs in the annual Budget Act. CDE will make copies of their draft expenditure plan available during the hearing.

The Committee requests that CDE present the committee with the draft quality plan and explain any changes in the plan from the prior federal fiscal year expenditure plan.

C. **Plan for Recovering Overpayments in Child Care Programs (April Finance Letter: Issue 332).** The Administration is requesting, via Budget Act language, that CDE provide a plan for reducing overpayments and recovering payments found to be in error related to fraud or overpayments, and to require that the errors be corrected. CDE presently has a unit (The Alternative Payment Monitoring Unit) which was established to conduct annual reviews of alternative payment (voucher-based) programs to address compliance monitoring and overpayments, which may contribute to the early detection of fraud.

Staff recommends that the committee approve the Administration's request to add Provision 6 to Item 6110-001-0890 with the following changes.

6. (c) The State Department of Education (SDE) shall *develop* ~~provide~~ a plan by October 1, 2009, *for reducing overpayments and recovering payments from child care and development programs that the SDE has determined to have been made in error related either to potential fraud or overpayments. The plan shall be submitted* to the Department of Finance ~~for~~ *by October 1, 2009 for consideration and potential inclusion in the January Governor's Budget*. ~~and approval for reducing overpayments and recovering payments from child care and development programs that the SDE has determined to have been made in error related either to potential fraud or overpayments.~~ The ~~SDE~~ *plan* shall provide options and recommendations for payment recovery *that seek to maximize California's receipt and use of federal funds,* and for implementing aggressive corrective measures to minimize payment errors. *Such corrective measures may include* ~~including, but not limited to,~~ rebidding contracts for contractors with high error rates, modifying the contract funding terms and conditions to require reductions to administrative allowances for contractors that exceed specified maximum error rates, and to prohibit payment to providers that continue to submit erroneous reports for reimbursement purposes. Prior to submitting recommendations, the SDE shall review options with the Department of Social Services and representatives of alternate payment providers, counties that directly administer Stage 1, and state funded centers and family day care homes. ~~When approved by the Department of Finance, the elements of the plan that can be implemented without~~

~~statutory changes shall be implemented no sooner than 30 days after notification in writing of the necessity to the chairperson of the committees in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee or designee may determine. The SDE shall promulgate emergency regulations to implement the plan by March 1, 2010.~~

III. UPATE ON FEDERAL STIMULUS FUNDS

A. Status of Federal Child Development "Stimulus" Funds. The American Recovery and Reinvestment Act (ARRA) was passed by Congress and signed by the President in mid-February. Included in the Human Services provisions of this act are additional dollars for Child Care and Development. The approximately $2 billion in additional funds will be dispersed to states through the existing Child Care and Development Block Grant. Of this amount, California is expected to receive approximately $220 million over the next two federal fiscal years.

The Committee requests that CDE discuss its proposed expenditure plan for these incoming dollars and that DOF and LAO comment on both CDE's proposal as well as the process that the Legislature can expect – moving forward – with respect to the appropriation of these funds.